ORDINANCE NO. 90- 1

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, AMENDING THE PALM BEACH COUNTY ORDINANCE FOR EQUAL OPPORTUNITY TO HOUSING AND PLACES OF PUBLIC ACCOMMODATION ORDINANCE NO. 84-13 AS AMENDED BY ORDINANCE NO. 85-4; PROVIDING FOR EQUAL OPPORTUNITY TO HOUSING AND PLACES OF PUBLIC ACCOMMODATION IN PALM BEACH COUNTY, FLORIDA; PROVIDING FOR DEFINITIONS; PROVIDING FOR UNLAWFUL PRACTICES; PROVIDING FOR EXEMPTIONS; PROVIDING FOR THE ESTABLISHMENT OF THE FAIR HOUSING BOARD; PROVIDING FOR THE ESTABLISHMENT OF A FAIR HOUSING DIVISION OF THE OFFICE OF EQUAL OPPORTUNITY: PROVIDING FOR INVESTIGATION PROCEDURES; PROVIDING FOR EVIDENCE; PROVIDING FOR COMMITTEE ORDER; PROVIDING FOR APPEAL; PROVIDING FOR CIVIL REMEDIES; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR APPLICABILITY; PROVIDING FOR THE REPEAL OF LAWS IN CONFLICT HEREWITH; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, it is the public policy of the United States of America to provide for fair housing and public accommodation throughout the United States and the policy of Palm Beach County, Florida, to also so provide; and

WHEREAS, discrimination in housing and in places of public accommodation deprives individuals of their basic right to associate, causes friction among groups in society, and adversely affects the public health, safety, and welfare; and

WHEREAS, the County has enacted Ordinance No. 84-13 as amended by Ordinance No. 85-4, which established the Fair Housing Board, defined unlawful discriminatory practices, created protected classes and established the procedures for processing complaints; and

WHEREAS, the Board of County Commissioners of Palm Beach County has determined that it serves the public interest to amend said Ordinance to comply with the federal Fair Housing Amendments Act of 1988 and Florida Statutes, 760.20-760.37, as amended by Chapter 89-321, Laws of Florida, and create additional protected classes; and

WHEREAS, in accordance with Title VIII of the Civil Rights Act of 1968 (Public Law 90-284); the Fair Housing Amendments Act of 1988 (Pub.L 100-430); the 1964 Civil Rights Act; Title 42, United States Code, Section 1982; Florida Statute 760.20-760.37 as amended by Chapter 89-321, Laws of Florida, Fair Housing Act; Florida Statutes, Section 125; and Florida Statutes, Section 553.48.

NOW, THEREFORE, BE IT AND IT IS HEREBY ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, as follows:

The Palm Beach County Ordinance for Equal Opportunity to Housing and Places of Public Accommodation Ordinance No. 84-13 as amended by Ordinance No. 85-4 is amended to read:

Section 1. Purpose. It is hereby declared to be the policy of the Board of County Commissioners of Palm Beach County in the exercise of its police power for the public safety, public health, and general welfare to assure, within constitutional limitations, equal opportunity to all persons to live in available housing facilities regardless of race, sex, color, religion, national origin, handicap, familial status, sexual orientation, age or marital status, and, to that end, to prohibit discrimination in housing by any person. It is also hereby declared to be the policy of the Board of County Commissioners of Palm Beach County, in the exercise of its police power for public safety, public health and general welfare to assure, within constitutional limitations, equal opportunity to all persons, regardless of race, sex, color, religion, national origin, handicap, familial status, sexual orientation, age or marital status to participate in the full and equal enjoyment of the goods, services, facilities, privileges, advantages, and accommodations of a place of public accommodation.

Section 2. Definitions.

When used herein:

1) "Person" includes one or more individuals, partnerships, associations, corporations, unincorporated organizations, legal representatives, trustees, trusts, trustees in bankruptcy, labor organizations, mutual companies, joint-stock companies, receivers, or fiduciaries.

2) The term "unlawful discriminatory practice" includes only those practices specified in Section 19 through 23 hereof.

3) The term "board", unless a different meaning clearly appears from the context, means the Palm Beach County Fair Housing Board, created by this Ordinance.

4) Each of the following establishments which serve the public is a place of "public accommodation" within the meaning of this Ordinance:

a) any inn, hotel, motel, or other establishment which provides lodging to transient guests, other than an establishment located within a building which contains not more than five rooms for rent or hire and which is actually occupied by the proprietor of such establishment as his/her residence;

b) any restaurant, cafeteria, lunchroom, lunch counter, soda fountain, or other facility principally engaged in selling food for consumption on the premises, including, but not limited to, any such facility located on the premises of any retail establishment; or any gasoline station;

c) any motion picture house, theater, concert hall, sports arena, stadium or other place of exhibition or entertainment; and

d) any establishment: (A)(i) which is physically located within the premises of any establishment otherwise covered by this subsection, or (ii) within the premises of which is physically located any such covered establishment, and (B) which holds itself out as serving patrons of such covered establishment. Such term shall not include any institution, club or place of accommodation which is in its nature distinctly private and not in fact open to the public.

5) "Dwelling" means any building, structure, or portion thereof which is used or occupied as, or is intended, arranged or designed to be used or occupied as, the home, residence or sleeping place of one or more families, and any vacant land which is offered for sale or lease for the construction or location thereon of any such building, structure, or portion thereof.

6) "To rent" includes to lease, to sublease, to let and otherwise to grant for a consideration the right to occupy premises not owned by the occupant.

7) The term "family" includes the grandparents, parents, children, brothers and sisters, whether by marriage, legal adoption or blood, and their spouses and children, of either the property owner or spouse of the property owner; and the term "family" also includes a single individual.

8) The term "complainant" shall mean the person filing a complaint pursuant to this Ordinance.

9) The term "respondent" shall mean the person or other entity accused in a complaint of an unfair housing practice and any other person or entity identified in the course of investigation not named as a respondent in the initial complaint who may be joined as an additional or substitute respondent upon written notice.

10) "Handicap" means with respect to a person,

a) Has a physical impairment which substantially limits one or more major life activities;

b) Has a record of such an impairment; or

c) Is regarded as having such an impairment;

d) Handicap does not include current illegal use of or addiction to a controlled substance (as defined in Section 102 of the Controlled Substances Act (21 USC 802)).

11) "Familial Status" means one or more individuals (who have not attained the age of 18 years) being domiciled with -

a) a parent or another person having legal custody of such indiviudal or individuals; or

b) the designee of such parent or other person having such custody, with the written permission of such parent or other person. The protections afforded against discrimination on the basis of familial status shall apply to any person who is pregnant or is in the process of securing legal custody of any individual who has not attained the age of 18 years.

12) "Sexual orientation" means male or female homosexuality, heterosexuality and bisexuality, by preference or practice.

13) "Conciliation" means the attempted resolution of issues raised by a complaint, or by the investigation of such complaint, through informal negotiations involving the complainant, the respondent, and the Director.

14) "Conciliation agreement" means a written agreement setting forth the resolution of the issues in conciliation.

15) "Prevailing party" has the same meaning as such term has in section 722 of the Revised Statutes of the United States (42 U.S.C. 1988).

16) "Multifamily dwelling" means:

a) buildings consisting of four or more units if such buildings have one or more elevators; and

b) ground floor units in other buildings consisting of four or more units.

17) "Residential real estate - related transaction" means any of the following:

a) The making or purchasing of loans or providing other financial assistance for purchasing, constructing, improving, repairing, or maintaining a dwelling; or secured by residential real estate.

b) The selling, brokering, or appraising of residential real property.

18) "Housing for older persons" means housing:

a) Provided under any state or federal program that is specifically designed and operated to assist elderly persons, as defined in the state or federal program;

b) Intended for, and solely occupied by, persons 62 years of age or older; or

c) Intended and operated for occupancy by at least one person 55 years of age or older per unit in 80 percent of the units.

d) Housing shall not fail to be considered housing for older persons if:

(i) A person who resides on such housing on or after the effective date of this ordinance, does not meet the age requirements of this subsection provided that any new occupant meets such age requirements; or

(ii) One or more units are unoccupied, provided that any unoccupied units are reserved for occupancy by persons who meet the age requirements of this subsection.

Section 3. Office of Equal Opportunity (OEO):

The County Administrator exercising his/her power of appointment shall employ a Director of the Office of Equal Opportunity and such other personnel in the Fair Housing Division of the Office of Equal Opportunity (OEO) as may be provided for in the budget approved by the Board of County Commissioners and for which an appropriation has been made. The staffing complement shall be referred to as the Fair Housing

Division of the Office of Equal Opportunity (OEO). It shall be the responsibility of the Director and/or the Director's designee to investigate complaints of discrimination prohibited by this Ordinance, and attempt to conciliate and mediate complaints of discrimination, and to perform such other duties of an administrative nature as may be assigned by the county administrator.

Section 4. Fair Housing Board.

The Fair Housing Board of Palm Beach County is hereby created and established. This Board is to be composed of seven (7) citizens of Palm Beach County appointed at large by the Board of County Commissioners to serve for staggered terms of two (2) years. Initially, four (4) members shall be appointed for a term of two (2) years, and three (3) members shall be appointed for a term of one (1) year. In addition to minority representation on such Board, the Board shall reflect, to the greatest extent possible, representation for all ages, races, religious beliefs and types of employment. Vacancies shall be filled in the same manner as the original appointments for the remainder of the vacant term. Each member shall serve without compensation and may be removed without cause by the Board of County Commissioners at any time. Members of the Fair Housing Board shall appoint a chairperson and vice-chairperson and the Board may promulgate rules and regulations for the conduct of its meetings and affairs.

Section 5. Board Terms, Rules and Regulations.

The following rules and regulations shall govern the operation of the Board:

1) The chairperson of the Fair Housing Board shall be elected by majority vote of the Board and shall serve for a term of one (1) year and have the following duties:

a) Call Board meetings and set the agenda for the same;

b) Preside at Board meetings;

c) To sign subpoenas.

d) Appoint and define the role of such committees as are necessary or expedient to advise the Board, the Director of the Office of Equal Opportunity; the Fair Housing Division and the Board of County Commissioners.

e) Perform such other functions as the Board may assign by rule or order.

2) The Vice-Chairperson shall be elected by majority vote of the Board and shall serve for a term of one (1) year. The Vice-Chairperson shall perform the duties of the Chairperson in the Chair-person's absence and such other duties as the Chairperson may assign.

3) If a vacancy occurs in the Office of Chairperson, the Vice-Chairperson shall become the Chairperson for the unexpired term of the Chairperson. If a vacancy occurs in the office of Vice-Chairperson, the Board will elect another member to fill the unexpired term of the Vice-Chairperson.

4) Four (4) members shall constitute a quorum to conduct Board business.

5) A majority of the members of a panel or committee shall constitute a quorum for the conduct of business assigned to a panel or committee.

6) In the presence of a quorum, Board or panel business shall be taken by a majority vote.

Section 6. Board Meetings.

The Board shall meet monthly. Notice of the time and place of the meeting shall be given to all Board members and all parties scheduled to be heard, and shall be made public. The Chairperson may call an unscheduled meeting, upon not less than 24 hours notice, and meetings may also be called by the Director upon the request of three (3) members of the Board. The County Administrator shall provide such staff as may reasonably be required in his/her discretion to assist the Board in the performance of its duties. The County Administrator shall provide a regular meeting place for the Board.

Section 7. Objectives.

The objectives of the Board shall be:

1) To promote and encourage fair treatment and equal opportunity in housing and public accommodation for all persons regardless of race, sex, color, religion, national origin, handicap, familial status, sexual orientation, age or marital status, to promote and encourage mutual understanding and respect among such persons and to

endeavor to eliminate discrimination in housing and public accommodation against and antagonism between such persons;

2) To cooperate with governmental and non-governmental agencies and organizations having like or kindred functions;

3) To make such investigations and studies in the field of fair housing and public accommodation as in its judgment will aid in effectuating its general purposes;

4) To assist various groups and agencies of the community to cooperate in educational programs and campaigns, devoted to the elimination of discrimination in housing and places of public accommodation;

5) To aid in permitting Palm Beach County to benefit from the fullest realization of its housing and public accommodation resources;

6) To recommend to the Board of County Commissioners the acceptance of certain grants and contracts from foundations and other sources for the purpose of carrying out the purposes of this Ordinance; and

7) To recommend to the Board of County Commissioners methods for elimination of discrimination and intergroup tensions.

8) The objectives set forth above are not to be construed as duties and the Board of County Commissioners shall have the discretion to determine when each objective is implemented.

Section 8. Powers and Duties of the Fair Housing Board.

The powers and duties of the Board shall be:

1) To refer or accept referral of complaints when appropriate and to cause, through the Fair Housing Division of the Office of Equal Opportunity, investigations of:

a) Tension or prejudice in relation to all housing and public accommodation matters involving race, sex, color, religion, national origin, handicap, familial status, sexual orientation, age or marital status.

b) Discrimination against any person by any person with regard to housing and public accommodation matters on the basis of race, sex, color, religion, national origin handicap, familial status, sexual orientation, age or marital status.

2) To propose reasonable rules and regulations as are necessary to effectuate the policies of this Ordinance and govern the proceedings of the Board. Such rules and regulations shall become effective upon approval by the Board of County Commissioners after a public hearing has been held by the Board of County Commissioners, pursuant to at least one notice published in a newspaper of general circulation in Palm Beach County at least ten (10) days prior to the hearing.

3) To receive, initiate, seek to conciliate, hold hearings upon and adjudicate complaints alleging violations of this Ordinance; to recommend methods and alternatives for eliminating injustices occasioned thereby; to carry out and enforce the purpose of this Ordinance.

4) To administer oaths, subpoena witnesses, and compel production of evidence pertaining to any hearing convened pursuant to the powers and duties authorized by this Ordinance.

5) To subpoena witnesses and compel production of evidence requested by the Fair Housing Division of the Office of Equal Opportunity relating to an investigation being conducted pursuant to this Ordinance.

6) Meet and exercise its power in any place within Palm Beach County.

7) To issue remedial orders prohibiting violations of this Ordinance and providing affirmative relief from the effects of the violation as specified in Section 20 hereof.

8) become a referral agency for the State and Federal government and comply with the necessary State and Federal regulations.

Section 9. Powers and Duties of the Director.

The powers and duties of the Director and/or the Director's designee shall be:

1) To investigate:

a) Tension or prejudice in relation to all housing and public accommodation matters involving race, sex, color, religion, national origin, handicap, familial status, sexual orientation, age or marital status;

b) Discrimination against any person by any person with regard to housing and public accommodation matters on the basis of race,

sex, color, religion, national origin, handicap, familial status, sexual orientation, age or marital status.

c) In conducting an investigation the Director and/or the Director's designee shall have access at all reasonable times to premises, records, documents, individuals, and other evidence or possible sources of evidence and may examine, record the testimony or statements of such persons as are reasonably necessary for the furtherance of the investigation providing that the Director and/or the Director's designee complies with the provisions of the Federal and State constitutions relating to unreasonable searches and seizures.

2) To attempt to conciliate and mediate complaints of discrimination brought pursuant to this Ordinance.

3) To prepare consent agreements embodying any agreement reached by the parties relating to the complaint and to present such agreement to the Board, for the Board's acceptance or rejection.

4) To dismiss complaints of discrimination upon a finding of no reasonable grounds to support a finding of discrimination under this Ordinance.

5) To administer oaths.

6) To exercise all powers reasonable and necessary to fulfill the purposes of this Ordinance.

Section 10. Filing of Complaints.

Any person who claims to have been injured by an unlawful discriminatory practice or who believes that he/she will be irrevocably injured by an unlawful discriminatory practice that is about to occur may file a sworn written complaint with the Fair Housing Division of the Office of Equal Opportunity which shall state the name and address of the complainant and the person or persons against whom the complaint is made. It shall also state the facts surrounding the alleged unlawful discriminatory practice and such other information as may be required by the Fair Housing Division of the Office of Equal Opportunity. The Director, with the Board's approval, may also file such a complaint. A complaint shall be filed not later than one year after the date of the alleged unlawful discriminatory practice in order to be processed under this Ordinance.

Section 11. Notice of Complaint.

Upon the filing of a complaint, the Director shall serve notice upon the aggrieved person acknowledging such filing and advising the aggrieved person of the time limits and choice of forums provided under this Ordinance. The Director or the Director's designee shall, not later than ten (10) day after such filing or the identification of an additional respondent, serve on the respondent a notice, by registered or certified mail, identifying the alleged discriminatory housing practice and advising such respondent of the procedural rights and obligations of respondents under this Ordinance, together with a copy of the original complaint. The respondent may file a sworn written answer to the complaint within 10 (ten) days of receipt of the complaint. Failure to file an answer by the respondent shall not result in any presumption of admission to the allegations in the complaint. Any subsequent amendment to the complaint or answer thereto shall be served by U.S. Mail.

Section 12. Processing Complaints.

Within 100 days of the filing of a complaint as set forth in Section 10 the staff of the Fair Housing Division of the Office of Equal Opportunity shall make such investigation as the Director or the Board deems appropriate to ascertain facts and issues. If the Fair Housing Division of the Office of Equal Opportunity is unable to complete the investigation within 100 days after the filing of the complaint, they shall notify the complainant and the respondent in writing of the reasons for not doing so. In conducting an investigation to ascertain whether or not there has been a violation of this Ordinance, the Director and/or the Director's designee shall have access at all reasonable times to premises, records, documents, individuals, and other evidence, or possible sources of evidence, and may examine, record the testimony or statements of such persons as are reasonably necessary for the furtherance of the investigation providing that the Office of Equal Opportunity complies with the provisions of the Federal and State constitutions relating to unreasonable searches and seizures. The Director, Chairperson, Vice Chairperson or any other member of the Fair Housing Board may issue subpoenas to compel access to, or the production of, such materials, or the appearance of such persons, and may issue

interrogatories to a respondent to the same extent and subject to the same limitations as would apply if the subpoenas or interrogatories were issued or served in aid of a civil action in court. In the case of a refusal to obey a subpoena issued to any person, or refusal to comply with any method of discovery authorized in the Florida Rules of Civil Procedure the Board and/or the Director shall request the County Attorney to make application to the appropriate Court to order the witness to comply with request for discovery, or to appear before the Board and to produce evidence, if so requested, or to give testimony concerning the matter in question. Failure to obey the order may be punishable by the Court as contempt. The Director and/or the Board may administer oaths. If the complaint is not settled within 100 days of the filing of the complaint, and if the Director shall determine that there are reasonable grounds to believe an unlawful discriminatory practice has occurred and is appropriate for conciliation, then the Director and/or the Director's designee shall attempt to conciliate the matter pursuant to Section 18 of this Ordinance.

Section 13. Withdrawal of Complaint.

A complaint filed pursuant to this Ordinance may be withdrawn at any time by the complaining party upon notifying the Fair Housing Division of the Office of Equal Opportunity; however, the Director may continue action against the Respondent if the facts establish reasonable grounds to support a finding of discrimination and the Board approves such further action.

Section 14. Preservation of Records.

Following service of the complaint in the manner provided herein, the Respondent shall preserve all personnel records, property records or any other written or documentary material relating to the complaint until the complaint has been resolved.

Section 15. Administrative Dismissal of Complaint.

Any complaint filed pursuant to this Ordinance shall be dismissed by the Director upon the following grounds:

a) The complainant has failed or refused to cooperate or the Complainant cannot be located after reasonable efforts to do so have

been made and after twenty (20) days notice to the complainant by mail to the complainant's last known address the complainant has failed to duly respond;

b) The complaint has not been timely filed with the Board or the Office of Equal Opportunity;

Section 16. Investigation Procedure.

After a complaint has been filed, the Director and/or the Director's designee shall conduct an investigation. The Director and/or the Director's designee may utilize the services and information gathered from other public agencies charged with the administration of equal opportunity laws. The following procedures shall be followed:

1) Complaint verification. As part of the investigation process, the complaining party may be required to provide an additional sworn written statement which shall include:

a) A statement of each particular harm or potential harm which the aggrieved person has suffered or will suffer and the date on which each harm occurred or will occur;

b) For each harm, a statement specifying the act, policy or practice which is alleged to be unlawful;

c) For each act, policy or practice alleged to have harmed the aggrieved person, a statement of the facts which lead the complainant to believe that the act, policy or practice is discriminatory.

2) Requests for Information. In investigating a complaint, the Director and/or the Director's designee may obtain information by:

a) Oral interview; and/or

b) Requests for written statement or affidavit; and/or

c) Any discovery methods set forth in the Florida Rules of Civil Procedure.

3) Complaining Party's Failure to Cooperate. Where the complainant fails to provide a necessary information statement, fails or refuses to appear or be available for interviews or conferences, fails or refuses to provide necessary information requested by the Fair Housing Division of the Office of Equal Opportunity pursuant to this section, or otherwise refuses to cooperate to the extent that the Fair Housing

Division Coordinator shall dismiss the complaint after providing 20 days notice to the complainant unless the Director, with Board approval, determines there is sufficient grounds and sufficient evidence to proceed with the complaint.

4) Access to Files during Investigation. Information obtained during the investigation of a complaint shall be disclosed only to the complainant, the respondent, or their authorized representative, or to witnesses, only when disclosure is deemed necessary by the Director for the investigation or for securing appropriate disposition of the complaint. The Director may direct that a particular record, document or portion thereof be withheld from inspection by a party only when necessary for the protection of a witness or third party, or for the preservation of a trade secret and only in accordance with the provisions of the Florida Public Records Law.

Section 17. Determination of Reasonable Grounds; Notice.

1) Upon completion of an investigation, if a complaint has not been settled or withdrawn, the Director shall make a determination as to whether there is a reasonable grounds to believe that an unlawful discriminatory practice has occurred. The Director and/or the Director's designee shall report the results of the investigation and his/her determination to the Board and advise the Board that a Notice of Determination shall be served upon the complainant and respondent. The Board shall receive a copy of the Notice of Determination.

2) The Board shall have the opportunity to review the report and submit comments to the Director.

3) A Notice of Determination of Reasonable Grounds shall include an invitation to participate in conciliation.

4) After service of a Notice of Determination, the parties named in the Determination may inspect the records and documents, in the custody of the Fair Housing Division of the Office of Equal Opportunity, which pertain to the determination. The Director may direct that a particular record, document or portion thereof be withheld from inspection by a party only when necessary for the protection of a witness or third party, or for the preservation of a trade secret and only in accordance with the provisions of the Florida Public Records Law.

Section 18. Finding of Reasonable Grounds; Conciliation Procedure.

1) After service of a Notice of Determination of Reasonable Grounds the Fair Housing Division of the Office of Equal Opportunity shall endeavor to eliminate any unlawful discriminatory practice by informal methods of conference, conciliation and persuasion. The Fair Housing Division of the Office of Equal Opportunity shall attempt to achieve a just resolution of all violations found, and to obtain agreement that the respondent will eliminate the unlawful practice and provide appropriate affirmative relief. Where such conciliation attempts are successful, the terms of the consent agreement shall be reduced to writing and signed by the complainant, the respondent and the Director. The original of the signed agreement shall be filed with the Director, and copies shall be served upon the respondent, complainant and the Board. The Board shall, at its next regularly scheduled meeting, approve or disapprove the agreement.

2) When a consent agreement has not been signed, and the complaint has not been withdrawn or dismissed, the Director shall serve a Notice of Failure of Conciliation upon the complainant, respondent and the Board not less than thirty (30) days after service of a Notice of Determination of Reasonable Grounds. Within thirty (30) days after the service of the Notice of Failure of Conciliation, the complainant may request an administrative hearing before the Board and the Board shall schedule such a hearing within 30 days of such a request.

3) Nothing said or done in the course of the conciliation process may be made public or used as evidence in subsequent proceedings under Sections 19-21 without the written consent of the persons concerned. Any employee of the Office of Equal Opportunity who makes public any violation of this provision is guilty of a misdemeanor of the first degree, punishable as provided in Florida Statute 775.082 or Florida Statute 775.083.

Section 19. Enforcement.

1) If, within 180 days after a complaint is filed with the Fair Housing Division of the Office of Equal Opportunity, the Fair Housing Division of the Office of Equal Opportunity has been unable to

obtain voluntary compliance with the Ordinance, the person aggrieved may commence a civil action in any appropriate court against the respondent named in the complaint or petition for an administrative hearing pursuant to Section 18 to enforce the rights granted and protected by this Ordinance. If, as a result of its investigation, the Fair Housing Division of the Office of Equal Opportunity finds there is reasonable cause to believe that a discriminatory practic has occurred at the request of the person aggrieved and with the authorization of the Board of County Commissioners, the County Attorney shall bring an action in the name of the County on behalf of the person aggrieved to enforce the provisions of this Ordinance.

2) In any proceeding, brought pursuant to this Ordinance, the burden of proof is on the complainant.

3) Whenever an action filed in either Federal or State court pursuant to this Ordinance, Florida Statute 760.20 et. seq., 42 U.S.C. Section 2000a or Title VIII of the Civil Rights Act of 1968 comes to trial the Fair Housing Division of the Office of Equal Opportunity shall immediately terminate all efforts to obtain voluntary compliance.

4) If the Director concludes at any time following the filing of a complaint that prompt judicial action is necessary to carry out the purposes of this ordinance, the Director may request the County Attorney, upon being authorized by the Board of County Commissioners, to institute a civil action for appropriate temporary or preliminary relief pending final disposition of the complaint under this Ordinance. The commencement of a civil action under this subsection shall not affect the initiation or continuation of proceedings under this Ordinance. The Director need not have petitioned for administrative hearing or exhausted the administrative remedies prior to requesting the commencement of a civil action.

5) The Court may impose the following fines for each violation of this Ordinance:

a) Up to $10,000, if the respondent has not previously been found guilty of a violation of this Ordinance.

b) Up to $25,000, if the respondent has been found guilty of one prior violation of the ordinance within the preceding five (5) years.

c) Up to $50,000, if the respondent has been found guilty of two or more violations of this ordinance within the preceding seven (7) years.

6) In imposing a fine under the preceding paragraph, the Court shall consider the nature and circumstances of the violation, the degree of culpability, the history of prior violations of the Ordinance, the financial circumstances of the respondent and the goal of detering future violations of the Ordinance.

7) The Court shall award reasonable attorney's fees and costs to the County in any action in which the County prevails under this Ordinance.

Section 20. Administrative Remedies.

1) If the Director is unable to obtain voluntary compliance with this Ordinance or has reasonable cause to believe that a discriminatory practice has occurred:

(a) The Director may institute an administrative proceeding before the Fair Housing Board.

(b) The complainant may request an administrative proceeding before the Fair Housing Board within thirty (30) days after receiving Notice of Failure of Conciliation.

2) In conducting an administrative hearing to ascertain whether or not there has been a violation of this Ordinance, the Board shall have the power to administer oaths, issue subpoenas, compel the production of books, papers and other documents and receive evidence. The Board shall conduct the administrative hearing in accordance with the procedure provided in Sections 120.57(1) and 120.58, Florida Statutes.

3) All recommended orders prepared by the Board as a result of such hearing or hearings shall conform with the requirements for such orders as set out in Section 120.59, Florida Statues.

4) The Board shall serve a copy of the order on each party to the administrative proceedings. The recommended order shall be considered as the final order of the Board for the purposes of proceeding further under this section.

5) Either party to such administrative proceedings shall have the right to appeal the administrative order described herein by filing notice of appeal pursuant to Florida Appellate Rule 9.110(2) within thirty (30) days of the issuance of such order by the Board. Any party shall have the right to bring an action in the appropriate Court to insure compliance with this Order.

6) In case of refusal to obey a subpoena issued by the Board, the County or the person at whose request it was issued may, in addition to any other remedies made available, petition for its enforcement in the appropriate court.

7) Should any party fail or refuse to comply with the final order issued or breach a conciliation agreement as provided herein, then following the expiration of the appeal time provided herein, the Board shall forward such order or conciliation agreement to the Board of County Commissioners with a request that the Board of County Commissioners authorize the County Attorney to bring such action or actions as necessary to obtain compliance with this Ordinance.

8) When any act is required or allowed to be done at or within a specified time by this section, for cause shown the Board, at any time in its discretion, and upon the written request of a party, may order the period enlarged unless otherwise prohibited by law.

9) All written motions upon which a ruling is requested shall be filed at least three days prior to the hearing date established by the Board. Such motions shall be considered and ruled upon by the Board prior to the start of the hearing.

10) All motions and orders thereon shall be made a part of the record of such administrative proceedings.

11) No appeal may be made from rulings on such motions until a final order has been issued.

12) If there are separately filed cases before the Board which involve similar issues of law and fact and identity of parties, then such cases may be consolidated by the Director for hearing before the Board.

13) Discovery shall be permitted and shall proceed in the manner provided by the Florida Rules of Civil Procedure.

14) The Board may order a pre-hearing conference prior to any administrative hearing. Prior to such conference the Board may direct that the parties submit a pre-conference statement addressing the issues of law and fact that will be involved in such hearing, identifying the witnesses that will testify, providing a list of all documents or other exhibits that will be submitted, and providing such other information as requested by the Board.

15) The Director shall set the time and place of any administrative hearing. The Director shall serve notice by certified mail of such hearing on the parties no later than fourteen (14) calendar days prior to the final hearing. Such notice requirement may be waived with the written consent of all parties. The notice shall also contain:

(a) A statement of the nature of the hearing;

(b) A statement of the legal authority and jurisdiction under which the hearing is to be held;

(c) A reference to the statutes, ordinances and rules involved.

13) Requests for subpoenas in any administrative proceeding shall be filed with the Fair Housing Division of the Office of Equal Opportunity and forward to the Board. Such request shall set forth the name and address of the person whose attendance is requested and shall describe with particularity any material to be produced. Such subpoenas shall be issued by the Board or the Director. The requesting party shall be responsible for service of any subpoena.

14) Any subpoena shall be subject to a motion to quash or a motion for protective order before the appropriate Court.

15) The official transcript of a hearing shall be preserved by tape recording or by a court reporter.

16) Should a party elect to provide a court reporter for a hearing, that party shall be responsible for entire payment of the reporter's fee.

17) If the Fair Housing Board finds that a discriminatory housing practice has occurred or is about to occur, it shall issue an order prohibiting the practice and awarding affirmative relief from the effects of the practice, including quantifiable damages and reasonable attorney's fees and costs.

Section 21. Enforcement by Private Persons.

1) A civil action shall be commenced no later than two (2) years after an alleged discriminatory practice. However, the Court shall continue a civil case brought pursuant to this Ordinance from time to time before bringing it to trial if the Court believes that the conciliation efforts of the Fair Housing Division of the Office of Equal Opportunity are likely to result in satisfactory settlement of the discriminatory practice complained of in the complaint made to the Fair Housing Division of the Office of Equal Opportunity and which practice forms the basis for the action in Court. Any sale, encumbrance or rental consummated prior to the issuance of any Court order issued under the authority of this Ordinance and involving a bona fide purchaser, encumbrance, or tenant without actual notice of the existence of the filing of a complaint or civil action under the provisions of this Ordinance shall not be affected.

2) If the Court finds that a discriminatory housing practice has occurred, it shall issue an order prohibiting the practice and providing affirmative relief from the effects of the practice, including injunctive and other equitable relief, actual and punitive damages, and reasonable attorney's fees and costs.

Section 22. Unlawful Discriminatory Practice in Public Accommodations.

It shall be an unlawful discriminatory practice for any person, being the owner, lessee, proprietor, manager, superintendent, agent, or employee of any place of public accommodation, resort or amusement, because of the race, sex, color, religion, national origin, handicap, familial status, sexual orientation, age or marital status of any person directly or indirectly, to refuse, withhold from or deny to such person any of the accommodations, advantages, facilities or privileges thereof, that are afforded the other customers, directly or indirectly, to publish, circulate, issue, display, post or mail any written or printed communication, notice or advertisement, to the effect that any of the accommodations, advantages, facilities, and privileges of any such place shall be refused, withheld from or denied to any person on account of race, sex, color, religion, national origin, handicap, familial status,

sexual orientation, age or marital status or that the patronage of any person belonging to any particular race, sex, color, religion, national origin, handicap, familial status, sexual orientation, age or marital status is unwelcome, objectionable or not acceptable, desired or solicited.

Section 23. Discriminatory Housing Practices.

Except as provided in Section 27 hereof; it shall be an unlawful discriminatory housing practice:

1) To refuse to sell or rent after the making of a bona fide offer, or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person because of race, sex, color, religion, national origin, handicap, familial status, sexual orientation, age or marital status.

2) To discriminate against any person in the terms, conditions or privileges of sale or rental of a dwelling, or in the provisions of services or facilities in connection therewith, because of race, sex, color, religion, national origin, handicap, familial status, sexual orientation, age or marital status.

3) To make, print, or publish, or cause to be made, printed, or published, any notice, statement or advertisement, with respect to the sale or rental of dwelling that indicates any preference, limitation or discrimination based on race, sex, color, religion, national origin, handicap, familial status, sexual orientation, age or marital status or an intention to make any such preference, limitation, or discrimination.

4) To place or display any other device either purporting to offer for sale, leasing assignment, transfer or other disposition or tending to lead to the belief that a bona fide offer is being made to sell, lease, assign, transfer, or otherwise dispose of any housing that is not in fact available or offered for sale, lease, assignment, transfer or other disposition based on race, sex, color, religion, national origin, handicap, familial status, sexual orientation, age or marital status.

5) To represent to any person because of race, color, religion, sex, national origin, handicap, familial status, sexual orientation age or marital status that any dwelling is not available

for inspection, sale or rental when such dwelling is in fact so available.

6) To induce or attempt to induce any person to transfer an interest in any housing by representations regarding the existence or potential proximity of real property owned, used or occupied by any person of any particular race, sex, color, religion, national origin, handicap, familial status, sexual orientation, age or marital status.

7) To promote, induce, influence or attempt to promote, induce or influence by the use of post cards, letters, circulars, telephone, visitation or any other means, directly or indirectly, a property owner, occupant or tenant, to list for sale, sell, remove from, lease, assign, transfer or otherwise dispose of any housing by referring as a part of a process or pattern of inciting neighborhood unrest, community tension, or fear of racial, sexual, color, religious, nationality, handicapped, familial status, sexual orientation, age or marital status change in any street, block, neighborhood, or any other area, due to the race, sex, color, religion, national origin handicap, familial status, sexual orientation, age or marital status of actual or anticipated neighbors, tenants or prospective buyers of any housing.

8) To cause to be made any untrue or intentionally misleading statement, advertise or in any other manner attempt as part of a process or pattern of inciting neighborhood unrest, community tension or fear of racial, sexual, color, religious, nationality, handicapped, familial status, sexual orientation, age or marital status change in any street, block, neighborhood, or any other area, to obtain a listing of housing for sale, rental assignment transfer or other disposition, where such statement, advertising or other representation is false or materially misleading or where there is insufficient basis to judge its truth or falsity to warrant making the statement, or to make any other such material misrepresentations in order to obtain such listing, sale, removal from, lease, assignment, transfer or other disposition of said housing.

9) To make, as part of a process or pattern of discouraging the purchase, rental, occupancy or other use of any housing in a particular block or neighborhood area, any representation to a person known to be a prospective purchaser that such block, neighborhood or area may undergo,

is undergoing or had undergone a change with respect to racial, sexual, color, religious, nationality, handicapped, familial status, sexual orientation, age or marital status composition of such neighborhood, block or area.

10) To place or display any device or to indicate by use of post cards, letters, circulars, telephone, visitation or any other means, directly or indirectly, either purporting to offer for sale, rental leasing, assignment, transfer or other disposition, or tending to lead to the belief that a bona fide offer is being made to sell, lease, assign, transfer or otherwise dispose of any housing that is not in fact available or offered for sale, lease, assignment, transfer, rental or other disposition based on race, sex, color, religion, national original, handicap, familial status, sexual orientation, age or marital status.

11) To refuse to permit, at the expense of a handicapped person, reasonable modifications of existing premises occupied or to be occupied by such person if such modifications may be necessary to afford such person full enjoyment of the premises, except that, in the case of a rental the landlord may where it is reasonable to do so, condition permission for a modification on the renter agreeing to restore the interior of the premises to the condition that existed before the modification reasonable wear and tear excepted. The landlord may not increase for handicapped persons any customarily required security deposit. However, where it is necessary in order to ensure with reasonable certainty that funds will be available to pay for the restorations at the end of the tenancy, the landlord may negotiate as part of such a restoration agreement a provision requiring that the tenant pay into an interest bearing escrow account, over a reasonable period a reasonable amount of money not to exceed the cost of the restorations. The interest in any such account shall accrue to the benefit of the tenant.

12) To refuse to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford a handicap person equal opportunity to use and enjoy a dwelling.

13) To fail to design and construct multi-family dwellings for first occupancy after March 13, 1991 in such a manner that:

a) The public use and common use portions of such dwellings are readily accessible to and usable by handicapped persons;

b) All the doors designed to allow passage into and within all premises within such dwellings are sufficienty wide to allow passage by handicapped persons in wheelchairs; and

c) All premises within such dwellings contain the following features of adaptive design; an accessible route into and through the dwelling; light switches, electrical outlets, thermostats, and other environmental controls in accessible locations; reinforcements in bathroom walls to allow later installation of grab bars; and useable kitchen and bathrooms such that an individual in a wheelchair can maneuver about the space.

d) Compliance with the appropriate requirements of the American National Standards Institute for buildings and facilities providing accessibility and usability for physically handicapped people, commonly cited as ANSI A117.1-1986 suffices to satisfy the requirements of paragraph 13(c).

14) To retaliate or discriminate in any manner against a person who has opposed a practice declared discriminatory by this Ordinance, or who has filed a complaint, testified, assisted or participated in any manner in any investigation, proceeding, hearing or conference under this Ordinance.

15) To aid, abet, incite, compel or coerce any person to engage in any of the practices prohibited by this Ordinance; or to obstruct or prevent any person from complying with the provision of this Ordinance; or any order issued thereunder.

16) To resist, prevent, impede or interfere with the Board or any of its member or representatives in the lawful performance of its or their duty under this Ordinance.

17) To initiate maliciously, frivolously or in bad faith any charge under the provisions of this Ordinance for the purposes of harassment.

Section 24. Discrimination in the Financing of Housing.

It shall be an unlawful discriminatory housing practice of any bank, building and loan association, insurance company or other corporation, association, firm or enterprise whose business consists in

whole or in part in the making of commercial real estate loans, to deny a loan or other financial assistance to any person applying therefor for the purpose of purchasing, constructing, improving, repairing, or maintaining a dwelling or to discriminate against him/her in the fixing of the amount, interest rate, duration, or other terms or conditions as such loan or other financial assistance, because of the race, sex, color, religion, national origin, handicap, familial status, sexual orientation, age or marital status of such person or any person associated with him/her in connection with such loan or other financial assistance, or the purposes of such loan or other financial assistance of the present or prospective owners, lessees, tenants or occupants, of the dwelling or dwellings in relation to which such loan or other financial assistance is to be made or given; provided, that nothing contained in this section shall impair the scope of effectiveness of the exceptions set forth in Section 27 thereof.

Section 25. Discrimination in the Provision of Brokerage Services.

It shall be an unlawful discriminatory housing practice to deny any person who is otherwise professionally qualified by state law, and subject to the Rules and Regulations of the Florida Real Estate Commission, provided said local Board of Realtors does not discriminate in its membership policies on the basis of race, sex, color, religion, national origin, handicap, familial status, sexual orientation, age or marital status access to or membership or participation in any multiple listing service, real estate brokers' organization or other service, organization or facility relating to the business of selling or renting dwellings, or to discriminate against any person in the terms or conditions of such access, membership, or participation, on account of race, sex, color, religion, national origin, handicap, familial status, sexual orientation, age or marital status.

Section 26. Discrimination in Residential Real Estate Related Transactions.

It shall be an unlawful discriminatory housing practice for any person or other entity whose business includes engaging in residential real estate - related transactions to discriminate against any person in making available such a transaction, or in the terms or

conditions of such a transaction because of race, sex, color, religion, national origin, handicap, familial status, sexual orientation, age or marital status. No cause of action arises against a person whose business engages in residential real estate related transactions for representing that an owner of property states that the property is "housing for older persons" whether or not such housing actually qualifies as housing for older persons.

Section 27. Limitations and Exceptions -Housing Practices.

1) The prohibitions set forth in Sections 22, 23, 24 and 25 shall not apply to a religious organization, association or society, or any non-profit institution or organization operated, supervised or controlled by or in conjunction with a religious organization, association, or society, from limiting the sale, rental or occupancy of dwellings which it owns or operates for other than commercial purposes to persons of the same religion, or from giving preference to such persons, unless membership in such religion is restricted on account of race, sex, color, national origin, handicap, familial status, sexual orientation, age or marital status.

2) The prohibitions set forth in Sections 23, 24 and 25 shall not apply to rooms or units in dwellings containing living quarters occupied or intended to be occupied by no more than four (4) families living independently of each other if the owner actually maintains and occupies one of such living quarters.

3) The prohibitions set forth in Sections 23, 24 and 25 shall not apply to any single-family dwelling unit sold or rented by an owner, who does not own more than three (3) such single-family dwelling units at any one time in Palm Beach County, if such unit is sold or rented without the use in any manner of the sales or rental facilities or the sales or rental services of any real estate broker or real estate salesperson or person in the business of selling or renting dwellings and/or without the publication, posting or mailing of any advertisement or written document in contravention of Section 23 but this shall not prohibit the use of any attorney, escrow agents, abstractors, title companies and such other professional assistance as is necessary to perfect or transfer title to a dwelling.

4) For the purposes of Section 27 (2) and (3), a person shall be deemed to be in the business of selling or renting dwellings and said exceptions shall not apply if:

a) That person has, within the preceding twelve (12) months, participated as principal in 3 or more transactions involving the sale or rental of any dwelling or any interest therein; or

b) That person has, within the preceding twelve (12) months, participated as agent, other than in the sale of his/her own personal residence, in providing sales or rental facilities or sales or rental services in two (2) or more transactions involving the sale or rental of any dwelling or any interest therein; or

c) That person is the owner of any dwelling designed for or intended for occupancy by, or occupied by, five (5) or more families.

5) The prohibitions set forth in Sections 22, 23, 24 and 25 shall not apply to a person or owner who wishes to rent a portion of a single dwelling unit to a person or persons of the same sex when such persons live in the single dwelling unit.

6) Housing for older persons, shall be exempted from the provisions regarding familial status and age.

7) Nothing in this Ordinance:

a) Prohibits a person engaged in the business of furnishing appraisals of real property from taking into consideration factors other than race, sex, color, religion, national origin, handicap, familial status, sexual orientation, age or marital status.

b) Limits the applicability of any local government restrictions regarding the maximum number of occupants permitted to occupy a dwelling.

c) Requires that a dwelling be made available to an individual whose tenancy would constitute a direct threat to the health or safety of other individuals or whose tenancy would result in substantial physical damage to the property of others.

d) Prohibits conduct against a person because such person has been convicted by any court of competent jurisdiction of the illegal manufacture or distribution of a controlled substance as defined by Florida Statutes, Chapter 893.

Section 28. Limitations and Exceptions - Public Accommodations.

The prohibitions set forth in Section 22 shall not be applied to:

1) Limit of the use of restroom to persons of one sex;

2) A religious organization, association or society or any non-profit institution or organization operating, supervised or controlled by or in conjunction with a religious organization, association or society from limiting facilities and accommodations, which it owns or operates, for other than a commercial purpose, to persons of the same religion or from giving preference to such persons.

Section 29. Limitations and Exceptions Physical Handicap.

Nothing in this Ordinance requires any person renting or selling a dwelling constructed for first occupancy before March 13, 1991 to modify, after, or adjust the dwelling in order to provide physical accessibility except as otherwise required by law.

Section 30. Inclusion in Code.

It is the intention of the Board of County Commissioners, and it is hereby ordained, that the provisions of this Ordinance shall become and be made a part of the Code of Laws and Ordinances of Palm Beach County, Florida; that the sections of this Ordinance may be renumbered or relettered to accomplish such intentions; and that the word "ordinance" may be changed to "section", "article", or other appropriate words.

Section 31. Applicability.

It is hereby provided that this Ordinance shall constitute a uniform law applicable in all the unincorporated and incorporated areas of Palm Beach County, Florida, to the extent permitted by the Florida Constitution, Article VIII, Section I.

Section 32. Repealing Laws in Conflict.

All special laws applying to and within this County and general laws applying only to this County, and any general law which the Board of County Commissioners is specifically authorized by Article VIII of the Florida Constitution, to supersede, nullify or amend, or any part of such ordinances, specifically Ordinances No. 73-12, 74-15, 78-11, 84-13 and 85-4, resolutions or laws, in conflict with any provision of this Ordinance are hereby repealed.

Section 33. Severability.

If any section, sub-section, sentence, clause, or provision of this Ordinance is held invalid, the remainder of this Ordinance shall not be affected by such invalidity.

Section 34. Short Title.

This Ordinance shall be known and cited as the Palm Beach County Ordinance for Equal Opportunity to Housing and Places of Public Accommodation.

Section 35. Effective Date.

The provisions of this Ordinance shall become effective upon receipt of official acknowledgement from the Florida Department of State that this Ordinance has been filed with the Department.

Approved and adopted by the Board of County Commissioners of Palm Beach County, Florida, this 16th day of January, 1990.

JOHN B. DUNKLE, CLERK
Board of County Commissioners
By: Judith Crosbie
DEPUTY CLERK

BOARD OF COUNTY COMMISSIONERS
OF PALM BEACH COUNTY, FLORIDA

By: Carol Elmquist
Chairperson

Acknowledged by the Department of State of the State of Florida, on this 31st day of January, 19 90, and filed in the office of the Clerk of the Board of County Commissioners.

EFFECTIVE DATE: Acknowledgement from the Department of State received on the 2nd day of February, 1990, at 10:42 A.M., and filed in the Office of the Clerk of the Board of County Commissioners of Palm Beach County, Florida.

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

By: Tammy Fields
County Attorney

(Fair Housing Amendment)

STATE OF FLORIDA, COUNTY OF PALM BEACH
I, JOHN B. DUNKLE, ex-officio Clerk of the Board of County Commissioners, certify this to be a true and correct copy of the original on file in my office on 1/31/90
DATED at West Palm Beach, FL on 2/6/90
JOHN B. DUNKLE, Clerk
By: Diane Clarke D.C.
Deputy Clerk